



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-829]

### **Stainless Steel Wire Rod from the Republic of Korea: Initiation of Circumvention Inquiry of Antidumping Duty Order**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** In response to an allegation of circumvention from North American Stainless (NAS), the Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of stainless steel round wire (SS round wire) from the Socialist Republic of Vietnam (Vietnam) are circumventing the antidumping duty (AD) order on stainless steel wire rod (SSWR) from the Republic of Korea (Korea).

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Hermes Pinilla, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3477.

### **SUPPLEMENTARY INFORMATION:**

#### Background

On May 18, 2021, NAS, a domestic producer of SSWR requested that Commerce initiate a circumvention inquiry proceeding, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(i), to determine whether SS round wire from Vietnam

involves a minor alteration to subject merchandise, such that it should be subject to the order<sup>1</sup> on SSWR from Korea.<sup>2</sup> On July 12, 2021, we issued a supplemental questionnaire.<sup>3</sup> On July 26, 2021, NAS responded to our supplemental questionnaire.<sup>4</sup> On July 2, 2021, August 12, 2021, and again on September 22, 2021, we extended the deadline by 45 days respectively, to determine whether to initiate the circumvention allegation.<sup>5</sup> Because we granted NAS an extension of time to respond to Commerce's second supplemental questionnaire response, on November 10, 2021, we determined that additional time was required to review and assess NAS's request for Commerce to determine whether to initiate a circumvention inquiry and, therefore, extended the deadline by 60 days, until January 14, 2022. On November 19, 2021, NAS responded to our second supplemental questionnaire.<sup>6</sup> On January 4, 2022, we extended the deadline by 14 days, until January 28, 2022.<sup>7</sup>

#### Scope of the Order

For a complete description of the scope of the *Order*, see Appendix I.

#### Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers SSWR from Korea that has been cold-drawn and further processed into SS round wire in Vietnam and exported into the United States.

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<sup>1</sup> See *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from Korea*, 63 FR 49331 (September 15, 1998) (*Order*).

<sup>2</sup> See NAS's Letter, "Stainless Steel Wire Rod from the Republic of Korea – Request for Circumvention Ruling Pursuant to Section 781(c)," dated May 18, 2021 (Circumvention Allegation).

<sup>3</sup> See Commerce's Letter, "Request for Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order on Stainless Steel Wire Rod from the Republic of Korea: Supplemental Questionnaire," dated July 12, 2021.

<sup>4</sup> See NAS's Letter, "Stainless Steel Wire Rod from Korea – NAS's Response to the Department's Supplemental Questionnaire," dated July 26, 2021.

<sup>5</sup> See Memoranda, "Stainless Steel Wire Rod from the Republic of Korea: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry," dated July 2, 2021, August 12, 2021, and September 22, 2021.

<sup>6</sup> See NAS' Letter, "Stainless Steel Wire Rod from Korea – NAS' Response to the Department's 2<sup>nd</sup> Supplemental Questionnaire," dated November 19, 2021.

<sup>7</sup> See Memorandum, "Stainless Steel Wire Rod from the Republic of Korea: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry," dated January 4, 2022.

## Legal Framework

Section 781(c) of the Act provides that Commerce may find circumvention of an AD or countervailing duty (CVD) order when products which are of the class or kind as merchandise subject to an AD or CVD order have been “altered in form or appearance in minor respects... whether or not included in the same tariff classification.” Section 781(c)(2) of the Act provides an exception that “{p}aragraph 1 shall not apply with respect to altered merchandise if the administering determines that it would be unnecessary to consider the altered merchandise within the scope of the {order}.”

While the Act is silent as to what factors to consider in determining whether alterations are properly considered “minor,” the legislative history of this provision indicates that there are certain factors that should be considered before reaching a circumvention determination. In conducting a circumvention inquiry under section 781(c) of the Act, Commerce has generally relied upon “such criteria as the overall physical characteristics of the merchandise, the expectations of the ultimate users, the use of the merchandise, the channels of marketing and the cost of any modification relative to the total value of the imported products.”<sup>8</sup> Concerning the allegation of minor alteration under section 781(c) of the Act and 19 CFR 351.225(i), Commerce examines such factors as: (1) overall physical characteristics; (2) expectations of ultimate users; (3) use of merchandise; (4) channels of marketing; and (5) cost of any modification relative to the value of the imported products.<sup>9</sup>

## Analysis

After analyzing the record evidence and the petitioner’s allegation, we determine that there is sufficient information to at minimum warrant the initiation of a minor alterations circumvention inquiry, pursuant to section 781(c) of the Act and 19 CFR 351.225(i).<sup>10</sup> For a full

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<sup>8</sup> See *Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People’s Republic of China: Initiation of Anti-Circumvention Inquiry of Antidumping and Countervailing Duty Orders – 600cc Up To 99cc Engines*, 86 FR 51866 (September 17, 2021).

<sup>9</sup> *Id.*; see also *Deacero S.A. de C.V. v. United States*, 817 F.3d 1332 (Fed. Cir. 2016).

<sup>10</sup> See Memorandum, “Decision Memorandum for Initiation of -Circumvention Inquiry,” dated concurrently with,

discussion of the basis for our decision to initiate a minor alterations circumvention inquiry, *see* the Initiation Decision Memorandum.<sup>11</sup> The Initiation Decision Memorandum is a public document, on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Initiation Decision Memorandum is available at <https://access.trade.gov/public/FRNoticesListLayout.aspx>. As explained in the Initiation Decision Memorandum, the information provided by NAS warrants initiating this circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.<sup>12</sup>

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue questionnaires to solicit information from producers and exporters in Vietnam concerning their shipments of SS round wire to the United States made from SSWR produced in Korea. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

## Conclusion

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and hereby adopted by, this notice (Initiation Decision Memorandum). The record evidence necessary for initiating a circumvention inquiry differ from a determination of circumvention. *See also, e.g., Hydrofluorocarbon Blends from the People's Republic of China; Initiation of the Anticircumvention Inquiry of Antidumping Duty Order; Components*, 84 FR 28273 (June 18, 2019).

<sup>11</sup> *Id.*

<sup>12</sup> *See, e.g., Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order*, 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

Commerce will determine whether the merchandise subject to the inquiry (as described in the “Merchandise Subject to the Circumvention Inquiry” section above) is circumventing the *Order* such that it should be included within the scope of the *Order*, pursuant to section 781(c) of the Act and 19 CFR 351.225(i).

In accordance with 19 CFR 351.225(1)(2), if Commerce issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the merchandise at issue entered or withdrawn from warehouse for consumption on or after the date of initiation of the inquiry.

Commerce will establish a schedule for questionnaires and comments on the issues related to the inquiry. In accordance with section 781(f) of the Act, to the maximum extent practicable, Commerce intends to issue its final determination within 300 days of the date of publication of this initiation.

#### Notification to Interested Parties

This notice is published in accordance with sections 781(c) of the Act and 19 CFR 351.225(i).

Dated: January 26, 2022.

**Lisa W. Wang,**

*Assistant Secretary*

*for Enforcement and Compliance.*

## **Appendix I**

### **Scope of the Order**

Stainless Steel Wire Rod, which comprises products that are hot-rolled or hot-rolled annealed and/or pickled and/or descaled rounds, squares, octagons, hexagons or other shapes, in coils, that may also be coated with a lubricant containing copper, lime or oxalate. SSWR is made of alloy steels containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. These products are manufactured only by hot-rolling or hot-rolling, annealing, and/or pickling and/or descaling, are normally sold in coiled form, and are of solid cross-section. The majority of SSWR sold in the United States is round in cross-sectional shape, annealed and pickled, and later cold-finished into stainless steel wire or small-diameter bar.

The most common size for such products is 5.5 millimeters or 0.217 inches in diameter, which represents the smallest size that normally is produced on a rolling mill and is the size that most wire-drawing machines are set up to draw. The range of SSWR sizes normally sold in the United States is between 0.20 inches and 1.312 inches diameter. Two stainless steel grades, SF20T and K-M35FL, are excluded from the scope of the investigation. The chemical makeup for the excluded grades is as follows:

#### **SF20T**

Carbon--0.05 max

Manganese--2.00 max

Phosphorous--0.05 max

Sulfur--0.15 max

Silicon--1.00 max

Chromium--19.00/21.00

Molybdenum--1.50/2.50

Lead--added (0.10/0.30)

Tellurium--added (0.03 min)

#### **K-M35FL**

Carbon--0.015 max

Silicon--0.70/1.00

Manganese--0.40 max

Phosphorous--0.04 max

Sulfur--0.03 max

Nickel--0.30 max

Chromium--12.50/14.00

Lead--0.10/0.30

Aluminum--0.20/0.35

The products subject to this order are currently classifiable under subheadings 7221.00.0005, 7221.00.0015, 7221.00.0030, 7221.00.0045, and 7221.00.0075 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

## **Appendix II**

- I. Summary
- II. Background
- III. Scope of the Order

IV. Merchandise Subject to the Circumvention Inquiry

V. Legal Framework

VI. Analysis

VII. Country-Wide Circumvention Inquiries

VIII. Recommendation

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